

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,) Docket No. 20 CR 688-2
)
Plaintiff,))
)
vs.)
)
GEE SIONG KOK,) Chicago, Illinois
) December 1, 2022
Defendant.) 2:00 o'clock p.m.

TRANSCRIPT OF PROCEEDINGS - VIDEOCONFERENCE CHANGE OF PLEA
BEFORE THE HONORABLE JOHN J. THARP, JR.

VIDEOCONFERENCE APPEARANCES:

For the Plaintiff: HON. JOHN R. LAUSCH, JR.
United States Attorney
BY: MS. MELODY WELLS
MR. STEVEN J. DOLLEAR
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Chicago, Illinois 60604

For the Defendant: MURPHY LAW GROUP, LLC
BY: MR. EUGENE E. MURPHY, JR.
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PROCEEDINGS RECORDED BY
MECHANICAL STENOGRAPHY
TRANSCRIPT PRODUCED BY COMPUTER

1 (Proceedings had via videoconference:)

2 THE COURT: Good afternoon, this is Judge Tharp.
3 Calling the case of United States vs. Kok, 20 CR 688-2.

4 Do we have counsel for the United States on the line?

5 MS. WELLS: Yes, your Honor, Melody Wells and Steve
6 Dollear for the United States.

7 THE COURT: All right. Good afternoon.

8 Do we have counsel for Mr. Kok on the line?

9 MR. MURPHY: We do, Judge. Gene Murphy for Mr. Kok.

10 THE COURT: And Mr. Kok is on the line, as well, by
11 video?

12 THE DEFENDANT: I am, your Honor.

13 THE COURT: We're here for a change of plea hearing.
14 Are we prepared to go forward?

15 MR. MURPHY: We are, Judge.

16 MS. WELLS: Yes, your Honor.

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Mr. Kok, we're going to go through a
19 process this afternoon that is required in order for me to
20 make a determination of whether it's appropriate to accept a
21 plea of guilty to any of the charges that have been brought
22 against you. In order to make that determination, I
23 essentially have to make sure that you know what you're doing;
24 that you know that you give up very important rights if you
25 plead guilty; that you're competent to plead guilty; that

1 you've had the assistance of counsel; and, that your decision
2 to plead guilty is one you have reached voluntarily, not one
3 that has been thrust upon you in some fashion.

4 In order to make those determinations, I will have to
5 ask you quite a few questions this afternoon. It's important
6 that you answer those questions truthfully and accurately for
7 several reasons. First, in just a moment, I'll put you under
8 oath, and it can be a federal crime to make false statements
9 under oath. So, you don't want to do that. And, second, I
10 need accurate information in order to make the determination
11 of whether I can accept the plea of guilty.

12 So, it's important that you answer questions
13 truthfully and accurately. To do that, you have to understand
14 the questions. If you have any -- if you don't understand
15 something that I'm asking you about and would like me to try
16 to clarify it, let me know that and I'm happy to do that.

17 Also, if you wish to confer with your attorney at any
18 point during these proceedings before answering a question,
19 let me know that, as well, and we have the ability in this
20 software program to allow you and your counsel to have a
21 private conversation. All right?

22 Okay. Would you please raise your right hand.

23 THE DEFENDANT: Okay.

24 (Defendant sworn.)

25 THE COURT: Thank you. You may put your hand down

1 now.

2 THE COURT REPORTER: Judge, I don't think we're
3 hearing Mr. Kok.

4 THE COURT: Is that Joe?

5 THE COURT REPORTER: Yes. I'm sorry, Judge. Yes. I
6 can't hear him.

7 THE COURT: Mr. Kok, if you could get a little closer
8 to your microphone and try to speak directly into that, that
9 would help our court reporter who is taking down the
10 transcript.

11 We've got your oath on record, however, so you can
12 put your hand down. All right.

13 MR. MURPHY: Judge -- Judge, I --

14 THE COURT: Hold on.

15 MR. MURPHY: Gee, speak as if you're speaking to a
16 large group, okay? Sometimes microphones aren't all that
17 great. So, belt it out nice and loud. It's the most
18 important thing that the court reporter hears you, okay?

19 THE DEFENDANT: Okay. Thank you.

20 MR. MURPHY: I'm sorry, Judge.

21 THE COURT: That's all right. Thank you.

22 The first order of business is obviously we are not
23 in person in the courtroom here in Chicago. Mr. Kok is
24 appearing from --

25 Where are you, Mr. Kok?

1 THE DEFENDANT: I'm in -- at home in England.

2 THE COURT: England?

3 THE DEFENDANT: Yes.

4 THE COURT: And your attorney is, where?

5 MR. MURPHY: Judge, I'm in Chicago. I'm a couple
6 blocks away.

7 THE COURT: Okay.

8 Do you understand, Mr. Kok, that you have the right
9 to have this hearing take place in person in the courtroom
10 here in Chicago if you choose to do so?

11 THE DEFENDANT: Yes, I understand.

12 THE COURT: And it's my understanding, from
13 information your counsel has provided, that you've requested
14 that this hearing take place by video rather than by appearing
15 in person in the courtroom; is that correct?

16 THE DEFENDANT: Yes, that's correct.

17 THE COURT: And that's in large measure to save you
18 the burden and inconvenience and exposure to potential COVID
19 and other pathogens that we're all still trying to avoid; is
20 that correct?

21 THE DEFENDANT: Correct, yes, your Honor.

22 THE COURT: All right.

23 Have you had enough time to talk with Mr. Murphy,
24 your attorney, about proceeding by video or in person?

25 THE DEFENDANT: Yes.

1 THE COURT REPORTER: I'm sorry, Judge, I didn't hear
2 his answer. I'm sorry. This is Joe.

3 THE DEFENDANT: Yes.

4 THE COURT: Have you had enough time to talk with
5 Mr. Murphy, your attorney, about proceeding by video or in
6 person?

7 THE DEFENDANT: Yes, I had conversation with Gene
8 Murphy, your Honor.

9 THE COURT: All right.

10 And is it your voluntary decision to request that
11 this hearing take place by video rather than in person?

12 THE DEFENDANT: Yes.

13 THE COURT: All right.

14 Do you voluntarily waive your right to have this
15 hearing take place in person?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: All right.

18 I find that Mr. Kok has voluntarily and knowingly
19 waived his right to proceed by video -- or, excuse me, by an
20 in-person appearance in court, and consequently we will
21 proceed, as we are, by videoconference.

22 EXAMINATION

23 BY THE COURT:

24 Q. Mr. Kok, could you state your full name, please.

25 A. My full name is Gee Siong Kok.

1 Q. Could you spell that for our court reporter?

2 A. G-double e, space, S-i-o-n-g, space, K-o-k.

3 Q. Thank you.

4 How old are you, sir?

5 A. I'm 64 years old. 64, your Honor.

6 Q. Do you presently live in London?

7 A. Not in London, in England. I'm in a small town in the
8 west of London, Weston super Mare.

9 Q. And are you married?

10 THE COURT REPORTER: I'm sorry, Judge, this is Joe.
11 I didn't hear the last part. West London, did he say?

12 THE DEFENDANT: West of London in a town called
13 Weston super Mare. W-e-s-t-o-n-s-u-p-e-r-M-a-r-e.

14 BY THE COURT:

15 Q. Are you married, sir?

16 A. Yes, your Honor.

17 Q. How long have you been married?

18 A. 40 years.

19 Q. 4-0?

20 A. 4-0, your Honor.

21 Q. Okay.

22 Do you have children?

23 A. Yes. I have five children.

24 Q. Are they all adults at this stage?

25 A. Yes, all of them are adults, your Honor.

1 Q. Okay.

2 What's the highest level of formal education you've
3 completed?

4 A. Degree in communication engineering.

5 Q. Is that a college or university-level degree?

6 A. University-level degree.

7 Q. And where did you attend university?

8 A. I attend University in Plymouth, England. Plymouth
9 University, England.

10 Q. So, I take it you're able to read and write English?

11 A. Yes, your Honor.

12 Q. Though English is not your native language; is that
13 correct?

14 A. It's my preferred language, your Honor.

15 Q. All right.

16 A. My native English -- my native language is Hokkien, which
17 is a Chinese dialect.

18 Q. And you prefer to proceed in English rather than in your
19 native language?

20 A. Yes, your Honor.

21 Q. Okay.

22 And are you presently employed?

23 A. No, I'm not employed.

24 Q. All right. When did your employment end?

25 A. Around 2 --

1 Q. Let me rephrase that. I'm sorry, let me rephrase that
2 question.

3 What's the last, most recent job that you've held?

4 A. The last job that I held was with Hytera Communications in
5 England.

6 Q. Okay.

7 And before working for Hytera, did you work for
8 Motorola?

9 A. Yes, I did.

10 Q. And did your work for those two companies span several
11 decades at least?

12 A. Yes, your Honor.

13 Q. Do you feel like you're in good physical health?

14 A. Just normal old age stuff. Other than that, yes,
15 physically, I'm in good health.

16 Q. All right.

17 Do you take any prescription medications?

18 A. Yes, I have prescription medication.

19 Q. Do any of those medications affect your ability to think
20 clearly?

21 A. No. Those --

22 Q. Have you --

23 A. Those medications are for pain.

24 Q. All right.

25 Have you had any of those medications today?

1 A. In the morning, yes.

2 Q. And is that a regular time that you take your medications?

3 A. Yes, it is, your Honor.

4 Q. All right.

5 Do those medications that you've taken this morning
6 have any effect on your ability to think clearly this
7 afternoon?

8 A. No.

9 Q. And have you ever been under the care of any mental health
10 professional?

11 A. No.

12 Q. Other than the medications that we just talked about, have
13 you had any other drugs or alcohol in the last 24 hours?

14 A. No.

15 Q. Is there any reason that you do not feel physically or
16 mentally up to making important decisions here this afternoon?

17 A. No.

18 THE COURT: Mr. Murphy, do you have any reason to
19 doubt Mr. Kok's competence to enter a plea of guilty at this
20 time?

21 MR. MURPHY: No, Judge. I believe he's competent.

22 THE COURT: Does the government have any reason to
23 doubt or question Mr. Kok's competence?

24 MS. WELLS: No, your Honor.

25 THE COURT: Based on my own observation of Mr. Kok

1 and his demeanor by video, and based also on the substance of
2 his responses to the Court's questions, I have no reason to
3 believe that Mr. Kok is not competent to enter a plea of
4 guilty at this time.

5 BY THE COURT:

6 Q. Mr. Kok, can you tell me who the attorney is that
7 represents you in this case?

8 A. Gene Murphy.

9 Q. Have you had enough time to talk with Mr. Murphy about
10 this case generally?

11 A. Yes. I've spoken to Gene this week.

12 Q. All right.

13 Not just this week, but have you had time to talk
14 with him previously, as well?

15 A. Yes, your Honor. We have been in constant communication.

16 Q. Okay.

17 And have you had enough time to talk with him about
18 what we're doing here this afternoon, entering a guilty plea
19 to one of the charges against you?

20 A. Yes, we have spoken on this, your Honor.

21 Q. Do you feel like you need to confer any further with Mr.
22 Murphy before we proceed?

23 A. No, your Honor.

24 Q. All right.

25 Are you satisfied with the advice and counsel that

1 Mr. Murphy has provided to you as your attorney?

2 A. Yes, your Honor.

3 Q. Is there anything you think he should have done for you as
4 your attorney that he has not done?

5 A. No.

6 Q. I'm sure one of the things that Mr. Murphy has talked to
7 you about are the rights that you give up by pleading guilty.
8 These rights are so important that we're required to go
9 through them on the record with you to make sure that you've
10 heard and understand them.

11 When I'm talking to you about these rights, they all
12 start with the fundamental proposition that under the law, you
13 are presumed to be not guilty of any of the charges that have
14 been brought against you.

15 Do you understand that?

16 A. Yes, your Honor.

17 Q. And because under the law you are presumed to be not
18 guilty of those charges, the law places the burden of proof in
19 this case on the government, and the government's burden here
20 is to present evidence sufficient to prove your guilt beyond a
21 reasonable doubt. That's the standard and burden of proof
22 that apply in a federal criminal case.

23 Do you understand that?

24 A. Yes, your Honor.

25 Q. And the way that we put the government to its burden is by

1 having a jury trial. And I'll talk to you about a jury trial
2 in just a minute. The first thing I want to tell you is
3 during the course of this prosecution, including any trial,
4 you have the right to have counsel represent you.

5 Do you understand that?

6 A. Yes, your Honor.

7 Q. Mr. Murphy is presently your counsel. If he was unable to
8 continue for any reason, we would give you the opportunity to
9 retain new counsel; or, if you could not afford new counsel,
10 counsel would be appointed to represent you.

11 Do you understand that?

12 A. Yes, your Honor.

13 Q. You also have the right to have the trial in this matter
14 take place in a public forum, in a public courtroom. The
15 government can't take you off somewhere and have a trial in
16 secret. And proceedings would be open to your family, your
17 friends, colleagues, co-workers, the media, strangers off the
18 street who just wanted to see a trial. Anybody that wanted to
19 be present in the courtroom would be permitted to observe the
20 trial.

21 Do you understand you have the right to a public
22 trial?

23 A. Yes, I do, your Honor.

24 Q. All right.

25 Now, a jury trial starts with the selection of a

1 jury. And a jury is just a group, in a criminal case, of 12
2 citizens who are called to serve as jurors in the case. And
3 the responsibility of the jurors collectively is to listen to
4 the evidence that's presented in the trial and decide whether
5 that evidence proves the defendant guilty of any of the
6 charges beyond a reasonable doubt. That's the jury's basic
7 function.

8 Do you understand that?

9 A. Yes, your Honor.

10 Q. All right.

11 Now, we don't just take 12 people off the street at
12 random and tell them you're going to be the jurors in this
13 case. We go through a very rigorous selection process to pick
14 people who we believe will be fair and impartial jurors in
15 this particular case. And in that process, you and Mr. Murphy
16 have a very big role to play and ultimately a very big say in
17 determining who the jurors in this case will be. Let me
18 explain why.

19 First, when we call in potential jurors to serve in
20 the case, we ask them questions so that we can get information
21 about their background, their attitudes, their experiences, in
22 order to assess whether we think that they are going to be
23 fair and impartial jurors in this case. Mr. Murphy can
24 participate in that process by submitting questions that we
25 would ask those potential jurors, and he might even be able to

1 pose some of the questions to the jurors himself.

2 So, number one, you'd participate in the questioning
3 of the jurors. Number two, if you and Mr. Murphy think
4 someone's not going to be fair and impartial based on the
5 information that we obtain about them, Mr. Murphy can make
6 what are called challenges for cause, which are just
7 objections that say, Judge, this person is not going to be
8 fair and impartial; they should not be permitted to sit as a
9 juror in this case. And if I agree, then that person would be
10 struck from the jury pool and would not be permitted to be on
11 the jury in this case. That's called a challenge for cause.

12 Do you understand that?

13 A. Yes, your Honor.

14 Q. The other thing to understand about the -- about
15 challenges for cause is there's no limit to the number that
16 you can make. As many people as you and Mr. Murphy might
17 object to, that's how many challenges you can make. Now, odds
18 are that I won't agree with all of your challenges, but
19 there's no limit to the number you can make.

20 Do you understand that?

21 A. Yes, I understand, your Honor.

22 Q. All right.

23 Third, there's another kind of challenge you can
24 exercise in this case, and that's called a peremptory
25 challenge. A peremptory challenge is more powerful than a

1 challenge for cause because I don't rule on peremptory
2 challenges.

3 On a peremptory challenge, you have the ability to
4 strike someone from the jury pool for almost any reason at
5 all. The only reason you can't strike someone from the jury
6 with a peremptory challenge would be for an unconstitutional
7 reason. For instance, you can't use peremptory challenges to
8 strike people based on their race or their religion, their
9 gender, categories like that. But any other reason that you
10 might have, you can use your peremptory challenge to strike
11 people from the jury pool.

12 So, if someone came in to serve as a juror and you
13 just thought they had a bad attitude, they didn't want to
14 spend a week or two or a month, however long the trial would
15 take, sitting as a juror in the case -- they have something
16 important going on at work or maybe their spouse is in the
17 hospital or their daughter's getting married, whatever the
18 case may be -- if you think they're going to be distracted and
19 not be a good juror, you could use your peremptory challenges.

20 You could use your peremptory challenges to strike
21 people just because you don't like the way they're dressed or
22 you think they're too rich or too poor or too dumb or too
23 smart. Anything but those unconstitutional reasons can serve
24 as the basis for a peremptory challenge?

25 Now, peremptory challenges I don't rule on. So, they

1 are very -- they're much more powerful than challenges for
2 cause. Because they're so powerful, you don't get an
3 unlimited number of peremptory challenges, but you would have
4 at least ten peremptory challenges to use in picking a jury in
5 this case. So, if we brought in 40 people to select a jury of
6 12 from and you can strike ten of those people with peremptory
7 challenges for any reason at all, that's 25 percent of the
8 jury pool right there. That's why I say the peremptory
9 challenges are very powerful.

10 Do you understand?

11 A. I understand, your Honor.

12 Q. Okay.

13 So, between questioning jurors, making challenges for
14 cause and exercising peremptory challenges, that's why I say
15 that you and Mr. Murphy will have a very big say in
16 determining who ultimately is selected to serve on the jury in
17 the case.

18 Do you understand that?

19 A. Yes, your Honor.

20 Q. Okay.

21 Now, once the jury's been selected, the lawyers make
22 their opening statements, and then because the government has
23 the burden of proof in the case, the government has to present
24 its evidence. And it does that by calling witnesses or
25 presenting tangible items or documents into evidence. There's

1 a couple things I want to make sure you understand about that
2 process.

3 First, the government doesn't get to necessarily show
4 or tell the jury everything it would like to. It has to
5 proceed by rules of evidence and rules of procedure. And if
6 Mr. Murphy believes that they're not following those rules, he
7 can make objections to the government's evidence. And if I
8 agree with him, I would not permit the government to present
9 that evidence. So, you have the right to challenge the
10 government's evidence.

11 Do you understand that?

12 A. Yes, I understand, your Honor.

13 Q. Okay.

14 And one of the most important ways that you can
15 challenge the government's evidence is through cross-
16 examination. And cross-examination just means that you have
17 the right to question any of the witnesses that the government
18 calls to testify at trial. It's not just the government that
19 gets to ask the questions. Your attorney would have that
20 ability, too.

21 Do you understand that?

22 A. Yes, I understand, your Honor.

23 Q. Okay.

24 Now, once the government presents its evidence, as
25 the defendant in the case, you have the right, but not the

1 obligation, to present evidence yourself. And I say the right
2 but not the obligation because it goes back to that very first
3 point I made. You are presumed to be not guilty; therefore,
4 you have no burden of proof, and therefore you do not have to
5 present any evidence at all at the trial. You don't have to
6 prove that you're not guilty. The government has to prove
7 that you are guilty.

8 Do you understand that distinction?

9 A. Yes, I understand, your Honor.

10 Q. That said, if you and Mr. Murphy had evidence you wanted
11 to present to the jury that you thought would help convince
12 them that you're not guilty, you have the right to do that
13 under the same rules and procedures that the government
14 operates under. So, you have the right to call witnesses.
15 You have the right to present exhibits into evidence and
16 things like that.

17 Do you understand that?

18 A. Yes, I understand, your Honor.

19 Q. Now, one of the types of evidence that you have the
20 ability to present, if you choose to do so, is your own
21 testimony. If we went to trial, you would have the right to
22 testify if you wish to do so. You also have the right not to
23 testify if you don't want to do so. And the decision about
24 whether to testify or not is a decision that you alone get to
25 make. It's not a decision that Mr. Murphy can make for you or

1 that the government makes for you or that the Court can make
2 for you. It's your decision.

3 Mr. Murphy is an experienced, very competent criminal
4 defense attorney. He would certainly give you the benefit of
5 his advice and expertise about whether it makes sense for you
6 to testify or not. But at the end of the day, if you don't
7 like his advice on that matter, you don't have to listen to
8 it, because it's your decision, not his?

9 Do you understand that?

10 A. Yes, I understand, your Honor.

11 Q. All right.

12 Now, if you chose to testify at trial, the jury would
13 be instructed to consider your testimony in the same way that
14 it considers the testimony of any other witness who testifies
15 during the trial. If you chose not to testify, however, the
16 jury would also be instructed that they could not hold that
17 decision against you. And what I mean by that is the jurors
18 are told that they can't say to themselves, Mr. Kok must be
19 guilty; if he wasn't guilty, he would have taken an oath to
20 tell the truth, he would have gone on the witness stand and he
21 would have told us he's not guilty; since he didn't do that, I
22 think he's guilty.

23 The jurors can't indulge in those inferences.

24 Do you understand that?

25 A. Yes, I understand, your Honor.

1 Q. In fact, if you chose not to testify at trial, I would
2 instruct the jury that they cannot even mention the fact that
3 you chose not to testify when they're deliberating on a
4 verdict.

5 Do you understand?

6 A. Yes, I understand, your Honor.

7 Q. Okay.

8 Now, another point I want to make about what you can
9 present as evidence at trial is it's important to understand
10 that if you wanted to present evidence from a witness, for
11 example, but they weren't willing to come to trial
12 voluntarily, Mr. Murphy has the ability, just like the
13 government, to issue what are called trial subpoenas. Those
14 are just court orders that require someone to come and present
15 their evidence at trial. And I would enforce trial subpoenas
16 issued by Mr. Murphy in the same way that I enforce trial
17 subpoenas issued by the government.

18 So, you have the ability to compel witnesses to come
19 forward at the trial.

20 Do you understand that?

21 A. Yes, I understand, your Honor.

22 Q. Okay.

23 Now, once both sides had presented whatever evidence
24 they wanted to present, the lawyers make their closing
25 arguments, the judge instructs the jury about the law that

1 applies in the case, and then the jurors go to the jury room
2 to deliberate, meaning to discuss the evidence and the law,
3 and to try to come to a verdict about whether that evidence
4 proved the defendant guilty of any of the charges that had
5 been brought against him.

6 Couple of important things to understand about the
7 jury verdict or a jury verdict. In order for the jury to come
8 back with a verdict, whether it's guilty or not guilty, they
9 have to be unanimous in their view. So, a guilty verdict --
10 in order for a guilty verdict to be returned, all 12 of the
11 jurors have to agree that the evidence proved the defendant
12 guilty beyond a reasonable doubt. If even one juror is not
13 convinced beyond a reasonable doubt, the jury cannot return a
14 verdict.

15 Do you understand that?

16 A. Yes, I understand, your Honor.

17 Q. Now, if the jury comes back with a verdict, whether --
18 let's just say for the sake of discussion the jury came back
19 with a verdict of guilty, your rights would not be over even
20 at that point because you have the right -- you would have the
21 right to appeal the jury's verdict to a reviewing court, a
22 court of appeals.

23 Do you understand you have the right to appeal the
24 jury's verdict?

25 A. Yes, I understand, your Honor.

1 Q. And on appeal, you have the right to be represented again
2 by counsel and you have the right to go to the United States
3 Court of Appeals for the Seventh Circuit. That's the
4 appellate court that sits in this courthouse in Chicago where
5 I'm located, and it reviews, among other cases, federal
6 criminal cases from Indiana, Illinois and Wisconsin.

7 And you have the right to go to the Seventh Circuit
8 with your attorney and make whatever arguments you may have
9 that there were errors made in your trial and that the errors
10 deprived you of a fair trial. You may have arguments that the
11 judge made incorrect rulings or that the government did
12 something improper or just that the jury didn't have enough
13 evidence to find you guilty beyond a reasonable doubt.

14 Whatever your arguments, you can present them to the
15 Court of Appeals, and if they agree with you and they agree
16 that those errors were sufficient to deprive you of a fair
17 trial, you might be able to have a new trial. Sometimes if
18 the errors are serious enough, the Court of Appeals might tell
19 the government you can't retry this individual, you have to
20 dismiss the charges against him. Now, that doesn't happen
21 very often.

22 My point in telling you this is if we continue with
23 this process this afternoon and I accept your plea of guilty,
24 there's not going to be anything -- any trial errors to appeal
25 from because we're not going to have a trial, we're not going

1 to pick a jury, we're not going to present evidence.

2 Do you understand that?

3 A. Yes, I understand, your Honor.

4 Q. It's also important to understand that if we go forward
5 here and I accept your guilty plea and the plea agreement
6 that's been entered into, that you surrender not only trial
7 rights, but you surrender most of your appellate rights, as
8 well.

9 Do you understand that the plea agreement in this
10 case includes an appellate waiver if the government makes a
11 motion to lower your sentence based on cooperation that you've
12 provided; and, if the government makes that motion, you give
13 up your right to appeal basically anything other than the
14 voluntariness of your guilty plea or the effectiveness of your
15 counsel?

16 Do you understand you give up those appellate rights
17 here if we go forward and I conclude that you're guilty and I
18 accept the plea agreement that the parties have entered into?
19 Do you understand that?

20 A. Yes, I understand, your Honor.

21 Q. Okay. That's a jury trial. That's the jury trial
22 process.

23 There's another kind of trial that I have to talk to
24 you about briefly, and that's called a bench trial. A bench
25 trial proceeds just like a jury trial with one big exception.

1 In a bench trial, we don't pick a jury to listen to the
2 evidence and render a verdict. In a bench trial, the judge
3 does that rather than a jury.

4 Now, that's the big difference between a bench trial
5 and a jury trial. Another difference to understand is that
6 you have an absolute right to a jury trial. You don't even
7 have to ask for one. You don't have a right to a bench trial.
8 You have the right to ask for a bench trial, but the
9 government could object to a bench trial or the Court could
10 object to a bench trial, in which case you would not be able
11 to have a bench trial. But if you thought that's how you
12 wanted to resolve the charges against you, you do have the
13 right to make that request.

14 Do you understand the difference between a bench
15 trial and a jury trial?

16 A. Yes, your Honor.

17 Q. I understand that the parties have reached a plea
18 agreement. Do you have a copy of the plea agreement there
19 with you, Mr. Kok?

20 A. Yes, I do. Let me get it.

21 Q. Okay.

22 Do you have it there in front of you now?

23 A. Can I just go off and pick it up?

24 Q. Sure. Yes, please.

25 A. Okay. Thank you.

1 (Brief pause.)

2 THE DEFENDANT: Okay. Sorry about that, your Honor.
3 I've got the plea agreement.

4 THE COURT: That's all right.

5 BY THE COURT:

6 Q. Would you look at the last page of that plea agreement,
7 please. And does that page bear your signature?

8 A. Yes, it does, your Honor.

9 Q. And that's your signature above your typewritten name?

10 A. Yes, it is, your Honor.

11 Q. All right.

12 Now, did you read this document before you signed it?

13 A. Yes, I did, your Honor.

14 Q. And did you have enough time to discuss it with Mr.
15 Murphy?

16 A. Yes, your Honor.

17 Q. Did you sign this plea agreement voluntarily?

18 A. Yes, I did, your Honor.

19 Q. Did anyone force you or coerce you in any way to sign this
20 plea agreement?

21 A. No, your Honor.

22 Q. You understand that this plea agreement is basically a
23 contract between you and the government? You promise to do
24 certain things and, in exchange, the government promises to do
25 certain things. Do you understand that's the nature of the

1 plea agreement?

2 A. Yes, your Honor.

3 Q. Other than any promises that are included in the plea
4 agreement, has anyone promised you anything in order to induce
5 you or entice you to sign the plea agreement?

6 A. No, your Honor.

7 Q. And you understand that in this plea agreement, you are
8 agreeing to enter a voluntary plea of guilty to Count 1 of the
9 indictment in this case, which charges you with conspiring to
10 steal trade secrets, in violation of Title 18 of the United
11 States Code, Section 1832(a)(5)?

12 Do you understand that's the charge that you will be
13 convicted of if I accept your plea of guilty?

14 A. Yes, your Honor.

15 Q. All right.

16 Do you understand that someone who is convicted of
17 that charge could be sentenced up to ten years of
18 imprisonment, fined up to \$250,000 or twice the gross gain or
19 gross loss resulting from the offense, whichever is greater,
20 and a term of what's called supervised release can be imposed
21 of up to three years. In addition, the Court would be
22 required to impose what's called a special assessment of \$100?
23 Collectively, those comprise the maximum penalties that can be
24 imposed in this case.

25 Do you understand that?

1 A. Yes, I do, your Honor.

2 Q. Now, those are the maximum penalties. They're not
3 necessarily the penalties that will be imposed.

4 You understand that you're not going to be sentenced
5 today, correct?

6 A. Yes, I understand, your Honor.

7 Q. And that's because I don't have the necessary information
8 to sentence you, to determine the appropriate sentence to
9 impose. And we won't have that in this case for a number of
10 months because, number one, I need background information
11 about you that I get through the preparation of what's called
12 a Presentence Investigation Report. That's a report prepared
13 by the Probation Department of the court. And it gives me
14 information about your background, your education, your
15 health, your financial situation, gives me more background
16 about the offense that you committed, and it provides
17 preliminary calculations of the advisory Sentencing Guideline
18 range that applies in the case.

19 Once I have all of that information, it's likely --
20 and counsel can correct me if I'm making an unwarranted
21 assumption here, but it's likely that sentencing in this case
22 would be deferred further until your cooperation with the
23 government has reached, if not an endpoint, a point where it
24 makes sense to go forward with the sentencing. So, it will be
25 some period of time -- months, perhaps longer -- before you're

1 actually sentenced in this case.

2 Do you understand that?

3 A. Yes, your Honor.

4 Q. Okay.

5 Now, one of the pieces of information that I need
6 before sentencing is a preliminary calculation of the advisory
7 Sentencing Guideline range that applies in the case. Have you
8 had a chance to talk with Mr. Murphy about the Sentencing
9 Guidelines and the role that they play in sentencing?

10 A. I do.

11 Q. All right.

12 A couple things I want to make sure you understand
13 about the Sentencing Guidelines. First, they're called the
14 Sentencing Guidelines because that's what they are. They are
15 guidelines. They're not binding on the Court. I'm required
16 to calculate what the Guidelines suggest that the sentence
17 that is appropriate in this case, but I have the discretion to
18 conclude that the Guideline sentence is not the appropriate
19 sentence for many reasons and that, therefore, a sentence
20 other than the Guidelines suggest may be appropriate. And,
21 ultimately, I have the discretion to sentence you within the
22 Guideline range, below that range or above that range, all the
23 way up to those maximum penalties that we just talked about.

24 Do you understand that the Court has that discretion?

25 A. I understand, your Honor.

1 Q. Okay.

2 Understanding that, I want to make sure that you have
3 some sense of what the Guideline range in this case may be.
4 I'm going to ask the lawyers what their preliminary views of
5 the Guidelines are because I'm required to consider the
6 Guidelines, and their discussions and thought is the best
7 information we have right now about what the Guidelines are
8 likely to be.

9 THE COURT: Government, what's your preliminary
10 calculation of the Guideline range?

11 MS. WELLS: Your Honor, our preliminary calculation
12 is that there would be an Offense Level -- an Adjusted Offense
13 Level -- of 37. And the Guideline calculation is detailed on
14 Page 10 of the plea agreement. Combined with an anticipated
15 Criminal History Category of I, that would result in an
16 advisory Guidelines range of 210 to 262 months of
17 imprisonment. However, pursuant to Guideline 5G1.1(a),
18 because the statutory maximum sentence is less than that
19 Guidelines range, the Guideline sentence is the statutory
20 maximum of 120 months in prison.

21 THE COURT: All right.

22 Mr. Murphy, do you anticipate any disputes about the
23 calculation of the Guideline range at this point?

24 MR. MURPHY: That's my understanding at this time,
25 Judge.

1 THE COURT: All right.

2 BY THE COURT:

3 Q. So, right now, Mr. Kok, Mr. Murphy agrees with the
4 government that when you apply the rules that are set forth in
5 the Guidelines, the suggested sentence is going to actually be
6 lower than what the Guidelines would suggest but for the
7 maximum penalty that can be imposed. As we discussed, there's
8 a ten-year maximum penalty that can be imposed based on a
9 conviction on Count 1. The Guideline range would be higher
10 but for that maximum penalty. So, in this case, the Guideline
11 range, the parties believe, is going to be the maximum penalty
12 under the law, which is ten years of imprisonment.

13 Do you understand that?

14 A. Yes, I understand, your Honor.

15 Q. Now, do you also understand that -- never mind.

16 I don't have the discretion to go above that because
17 that's the statutory maximum. I do have the discretion to go
18 lower than that, though.

19 Now, the penalties that are imposed in this case, Mr.
20 Kok, or the sentence that's imposed is obviously the most
21 significant consequence of being found guilty of this charge,
22 but it's not the only consequence. By that, I mean that the
23 law imposes restrictions and requirements on people who have
24 been convicted of felony convictions -- felony offenses. And
25 this is a felony offense, Count 1 of the indictment.

1 The law imposes various restrictions on people who
2 have been convicted of felonies. Common examples are that one
3 can't possess a firearm in most jurisdictions if you have been
4 convicted of a felony. You can't vote in many jurisdictions
5 if you've been convicted of a felony. You can't run for
6 office if you've been convicted of a felony. In federal
7 court, you can't sit as a juror in a federal criminal case if
8 you've been convicted of a felony.

9 There are many, many restrictions like that that are
10 imposed on people who have been convicted of felonies. There
11 are too many for me to list them all for you, and they change
12 and vary from place to place and jurisdiction to jurisdiction.
13 So, I can't possibly warn you about all of them. If you have
14 any concerns about those kinds of things, that's something
15 that you need to discuss with your attorney before pleading
16 guilty. Because if you wait until after you've pled guilty to
17 come back and say, Judge, I didn't know I was going to lose
18 this right or that right, I'd like to withdraw my guilty plea,
19 it's going to be too late for that.

20 Do you understand that?

21 A. Yes, your Honor.

22 Q. All right.

23 I also want to make particularly clear that folks who
24 are not United States citizens very likely for -- after being
25 convicted of this crime, very likely would face deportation

1 proceedings from the United States. So, if that's a concern
2 of yours, that's something, again, that you have to give
3 thought to before you plead guilty rather than afterwards.

4 Do you understand?

5 A. Yes, I understand, your Honor.

6 Q. Would you turn -- take that plea agreement, again, Mr.
7 Kok, and turn to Page 2. And do you see about a third of the
8 way down that page, there's a heading that's underlined that
9 says, "Factual Basis."

10 Are you with me there?

11 A. Factual basis, yes.

12 Q. On Page 2?

13 A. Yes.

14 Q. That factual basis in the plea agreement continues for a
15 number of pages all the way to about the middle of Page 8.

16 Now, when you signed the plea agreement, did you
17 understand that that factual basis is essentially a written
18 confession as to why you're guilty of the charge set forth in
19 Count 1 of the indictment?

20 A. Yes, your Honor.

21 Q. Understanding that's the nature of that portion of the
22 plea agreement, did you read it very carefully?

23 A. Yes, your Honor.

24 Q. And were you satisfied that that factual basis set forth
25 in the plea agreement was completely 100 percent accurate when

1 you signed that plea agreement?

2 A. Yes, your Honor.

3 Q. Do you continue to this present time to believe that the
4 factual basis in the plea agreement is completely 100 percent
5 accurate?

6 A. Yes, your Honor.

7 Q. All right.

8 When your attorney was negotiating the plea agreement
9 with the government, did you have the opportunity to review
10 earlier drafts of the factual basis?

11 A. Yes, I did, your Honor.

12 Q. Did you understand that if you felt something was not
13 accurate or correct in that draft, that it should be corrected
14 and the error should be pointed out?

15 A. Yes, I did, your Honor.

16 Q. Did you make any such corrections to earlier drafts?

17 A. No, your Honor.

18 Q. All right.

19 Is that because you were satisfied that all along the
20 factual basis has been completely accurate?

21 A. Yes, your Honor.

22 Q. All right.

23 THE COURT: Understanding -- either Ms. Wells or
24 Mr. Dollear, understanding that Mr. Kok has affirmed the
25 accuracy of the detailed factual basis set forth in the plea

1 agreement, I'll ask one of you to summarize what the evidence
2 at trial would be, summarize being the operative word here.

3 BY THE COURT:

4 Q. And, Mr. Kok, I'm going to ask you to listen closely to
5 the prosecutor. They're going to tell me if this case went to
6 trial what their evidence would show. And when they're
7 finished, I'm going to ask you whether you disagree with
8 anything that they've told me. All right?

9 A. Okay.

10 THE COURT: Ms. Wells?

11 MS. WELLS: Yes, your Honor, I'll proceed.

12 As the Court noted, there is a detailed factual basis
13 contained in Paragraph 6 of the plea agreement that has been
14 reviewed and signed by the defendant. In summary, the
15 government's evidence would show that beginning on or around
16 June 8, 2007, and continuing until at least on or about June
17 22nd, 2020, the defendant, along with others, including the
18 other named defendants in this case, conspired to and did
19 steal trade secrets from the named victim Motorola.

20 Defendant and others worked for a company called
21 Hytera, which was headquartered in China. Motorola
22 Solutions, Inc., was a telecommunications company
23 headquartered in Illinois with offices around the world. As
24 the defendant has acknowledged in the factual basis, he was
25 aware that hundreds of Motorola employees had spent a number

1 of years developing digital mobile radio technology for
2 Motorola. He also knew that by approximately 2007, Motorola
3 was offering those digital mobile radios or DMRs for sale to
4 the public.

5 By at least June 2007, an executive at Hytera, noted
6 as Executive 1 in the plea agreement, had begun to recruit the
7 defendant to leave Motorola and to start working for Hytera in
8 China. During that recruitment, Executive 1 and the defendant
9 met in person many times. At the time of his recruitment to
10 Hytera, defendant was a senior engineering manager responsible
11 for DMR products at Motorola.

12 On occasion, Executive 1 told the defendant that he
13 wanted to develop Hytera's DMR products in two years. The
14 defendant believed that it would take several more years to
15 develop a product like Motorola's, but Executive 1 instructed
16 him to develop the technology faster. The defendant -- excuse
17 me. Executive 1 requested, and the defendant agreed, that
18 they would steal Motorola's DMR technology. To accomplish
19 that, the defendant recruited several Motorola employees and
20 told them to steal Motorola trade secrets, including
21 proprietary source code related to DMR.

22 The defendant began working at Hytera in 2008. He
23 earned a higher salary and purchased stock options. He earned
24 approximately -- he earned over \$1 million during his
25 employment at Hytera. He was eventually made a member of

1 Hytera's Board of Directors.

2 Among the employees recruited by the defendant were
3 the other named defendants in this case. In part, because of
4 the defendant's instructions, co-defendants, including Yih
5 Tzye Kok, Sam Chia, Wong, Hoong, and Chua, accessed and copied
6 confidential proprietary and trade secret Motorola information
7 and provided -- those co-defendants provided information from
8 Motorola to Hytera without the victim's knowledge or consent.

9 The defendant acknowledges that when defendants
10 accessed Motorola documents from Malaysia, those requests were
11 routed through servers in the Northern District of Illinois,
12 and that other technical aspects of that routing took place in
13 the United States.

14 As instructed by Executive 1, the defendant told his
15 co-defendant Sam Chia that he should take as much information
16 as he could take from Motorola, including everything related
17 to DMR, and that Chia, the co-defendant, along with others,
18 stole proprietary Motorola DMR information, including the
19 source code.

20 Co-defendant Ooi was recruited by co-defendant Yih
21 Tzye Kok to serve as a software development project manager.
22 While at Motorola, the defendant supervised Wong, Hoong and
23 Chua, all co-defendants in the case. They were selected
24 because of their particular expertise related to DMR and
25 related technology.

1 As a result of Executive 1's instruction and
2 defendant's efforts and efforts of other Hytera employees,
3 Hytera's DMR technology used source code stolen from Motorola.
4 The defendant was aware that Hytera marketed and sold its DMR
5 which relied on that stolen technology around the world. And
6 the defendant acknowledges that that Hytera DMR product was
7 sold in the Northern District of Illinois at least as recently
8 as November 2019.

9 The defendant also knew that certain information
10 stolen from Motorola and used by Hytera included Motorola
11 trade secrets. And he acknowledges that certain stolen
12 information from Motorola were trade secrets because Motorola
13 had taken reasonable security measures, both physical and
14 cyber related, to keep that information secret.

15 Based on the stolen trade secrets, Hytera was able to
16 develop a DMR product by 2010. Defendant acknowledges that
17 the theft of trade secrets from Motorola caused at least
18 \$252,100,000 in pecuniary damage to Motorola in the form of
19 lost profits.

20 In September of 2017, the defendant testified in a
21 deposition in connection with a civil lawsuit between Motorola
22 and Hytera, and he acknowledges during the deposition and
23 under oath he provided materially false testimony.

24 And, your Honor, that is, as you said, a summary of
25 the factual basis, but I'll stop there unless the Court has

1 any other questions.

2 BY THE COURT:

3 Q. Mr. Kok, do you disagree with any of the statements that
4 Ms. Wells just provided to the Court?

5 A. No, your Honor.

6 Q. So, from at least this 13-year period from 2007 to -- more
7 than 13 years. 17 years, excuse me. I can't subtract.

8 During this approximately 17-year period, that you
9 schemed with others to steal trade secrets of Motorola
10 Corporation to advance the interests of Hytera?

11 A. 2007 to 2017. Ten years.

12 Q. Ten years. I told you I'm not good at math.

13 So, over that period do you agree you worked with the
14 co-defendants who are named in this case to steal trade
15 secrets from Motorola and provide them to Hytera?

16 A. Yes, I did, your Honor.

17 THE COURT: Based on the detailed factual stipulation
18 that is set forth in the plea agreement, the accuracy of which
19 Mr. Kok has confirmed under oath; based on the government's
20 proffer of what its evidence at trial would show, the accuracy
21 of which Mr. Kok has confirmed under oath, as well; and, based
22 on his responses under oath to the Court's questions, I find
23 that there is a factual basis to support a plea of guilty to
24 Count 1 of the indictment in this case.

25 BY THE COURT:

1 Q. The last thing I need to cover with you, Mr. Kok, is --
2 and I asked you some of these questions already with respect
3 to signing the plea agreement. But now I'm asking you more
4 broadly about your decision to plead guilty. Has anyone
5 forced you in any way to plead guilty to this charge?

6 A. No, your Honor.

7 Q. Has anyone threatened you in any way to cause you to plead
8 guilty to this charge?

9 A. No, your Honor.

10 Q. Other than the plea agreement, have any promises been made
11 to you to induce you or entice you to plead guilty?

12 A. No, your Honor.

13 Q. Has anyone promised you what your sentence in this case
14 will be if you plead guilty?

15 A. No, your Honor.

16 Q. You understand that ultimately the sentence that is
17 imposed in this case is a determination that I will make, it's
18 not a determination that is dictated by your plea agreement.

19 Do you understand that?

20 A. Yes, I understand, your Honor.

21 Q. Is your decision to plead guilty entirely voluntary?

22 A. Yes, it is, your Honor.

23 Q. Is it a decision that you have reached because you have
24 decided it is in your own best interest to plead guilty?

25 A. Yes, your Honor.

1 Q. Is it a decision you've reached because you are, in fact,
2 guilty of the charge set forth in Count 1 of the indictment?

3 A. Yes, your Honor.

4 Q. All right.

5 Then the next question I'm going to ask you, Mr. Kok,
6 is how you wish to plead to Count 1 of the indictment in this
7 case. If you tell me that you wish to plead guilty, I'm going
8 to accept your plea of guilty, and you will at that point be
9 adjudged guilty and it will be just like you had a trial and
10 the jury came back with a verdict of guilty. In other words,
11 that's the point of no return.

12 Do you understand that?

13 A. Yes, I understand, your Honor.

14 Q. Understanding that, Mr. Kok, how do you wish to plead to
15 Count 1 of the indictment in this case?

16 A. Guilty, your Honor.

17 THE COURT: Since you acknowledge that you are, in
18 fact, guilty as charged in Count 1, you had the assistance of
19 counsel, you've been advised of your trial rights, we've
20 talked about the sentencing process, the maximum possible
21 punishment that can be imposed, the role that the Sentencing
22 Guidelines play and you have acknowledged that you are freely
23 and voluntarily pleading guilty, I accept your plea of guilty
24 and I enter a finding of guilty on your plea as to Count 1 of
25 the indictment.

1 All right. Ordinarily, the next step in this process
2 is the preparation of a Presentence Investigation Report.
3 Does that make sense to start that at this point, counsel, or
4 defer that process?

5 MR. MURPHY: Judge --

6 MS. WELLS: Your Honor, I would --

7 MR. MURPHY: I'm sorry. Go ahead, Melody.

8 MS. WELLS: Your Honor, I would --

9 MR. MURPHY: Go ahead.

10 MS. WELLS: I would suggest deferring it, your Honor,
11 but if Mr. Murphy feels otherwise, he can say so.

12 MR. MURPHY: No, I'm in total agreement. Deferring
13 makes a lot of sense, Judge.

14 THE COURT: All right.

15 Then why don't we set -- I think we are safe in
16 setting a status, say, six months out. I don't think things
17 are going to be materially resolved by that point.

18 Does that make sense?

19 MS. WELLS: Yes.

20 MR. MURPHY: Yes, Judge.

21 THE COURT: We'll pick a date.

22 Alberta, are you still on?

23 THE CLERK: Yes, I am.

24 THE COURT: Can you give us a date in --

25 THE CLERK: In June?

1 THE COURT: Yes. Maybe the 5th or 6th of June.

2 THE CLERK: June 5th at 2:30 p.m.

3 THE COURT: Is that convenient for counsel?

4 MS. WELLS: It is for the government, your Honor.

5 MR. MURPHY: Yes, Judge.

6 THE COURT: All right.

7 I assume there's no dispute that Mr. Kok should
8 remain on bond pending sentencing?

9 MS. WELLS: That's correct.

10 MR. MURPHY: That's correct, Judge.

11 THE COURT: Mr. Kok, you're going to remain on bond,
12 subject to the pretrial conditions that have been imposed in
13 this case, pending sentencing. It's even more important now
14 that you continue to abide by all your conditions of bond.
15 Were you not to do that, not only might your bond be revoked,
16 but the fact that you're ultimately not able to self-surrender
17 to serve any prison sentence could adversely affect your
18 designation in the Bureau of Prisons and result in assignment
19 to a harsher institution than would otherwise be warranted.
20 So, it's more important than ever to abide by all your
21 conditions of release.

22 Do you understand?

23 THE DEFENDANT: I understand, your Honor.

24 THE COURT: Okay.

25 Anything else we need to do today, counsel?

1 MR. MURPHY: I think we're good to go, Judge.

2 THE COURT: All right. Thank you. We'll convene in
3 early June. We're adjourned.

4 MR. MURPHY: Thank you, Judge.

5 THE DEFENDANT: May I say something, Judge?

6 THE COURT: Yes, Mr. Kok.

7 THE DEFENDANT: Thank you for accommodating remote
8 change of plea. It helped me to -- my family life as normal
9 as possible, and I truly appreciate that.

10 THE COURT: You're welcome.

11 All right. Thank you, all. We're adjourned.

12 MR. MURPHY: Thank you.

13 THE DEFENDANT: Thank you.

14 * * * * *

15

16 I certify that the foregoing is a correct transcript from the
17 record of proceedings in the above-entitled matter.

18
19 /s/ Joseph Rickhoff
Official Court Reporter

December 5, 2022

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